

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of)	
)	ET Docket No. 05-24
Requirements for Digital Television)	
Receiving Capability)	
)	

To: The Commission

COMMENTS OF PHILIPS ELECTRONICS NORTH AMERICA CORPORATION

Philips Electronics North America Corporation (“Philips”) respectfully submits these Comments in support of the Commission’s proposals in the *Notice of Proposed Rulemaking* in the above-captioned proceeding.¹ Philips is committed to providing a wide range of high quality digital TV products to consumers to enable them to enjoy the benefits of the digital television experience. The best way for the Commission to ensure that manufacturers do their part to expedite the DTV transition is to replace the interim 50-percent of sales rule governing 25-to-36 inch DTV receivers with a 100-percent rule within an accelerated yet still reasonable timeframe. For that reason, Philips supports the proposed rule change.

INTRODUCTION

Philips is at the cutting edge of digital technologies used in consumer products and consistently introduces world-class products, including digital television receivers, designed to bring consumers the benefits of the digital revolution. Philips was a founding member of the Grand Alliance that pioneered the ATSC over-the-air DTV broadcast standard and continues to

¹ *Requirements for Digital Television Receiving Capability*, Notice of Proposed Rulemaking, 20 FCC Rcd 3780 (2005) (“Notice” or “NPRM”).

be a leader in the development and implementation of terrestrial digital television in the United States. Philips has a strong record of achievement in technological innovation and successful promotion of consumer products using digital technologies. Philips works with retailers throughout the United States to offer consumers the latest in digital television features and technology. We promote the development and introduction of digital innovations and educate the retailers who sell our digital products to consumers.

Philips has invested very substantial funds to develop leading-edge digital television receivers with integrated ATSC digital tuners. The success of the digital transition is integral to the success of Philips in the television receiver marketplace. However, Philips has met significant resistance from retailers and consumers to the purchase of integrated ATSC sets. The change proposed in the Commission's NPRM substituting a March 1, 2006 100-percent requirement for the July 1, 2005 interim 50-percent requirement would improve the digital picture in the marketplace.

ELIMINATION OF THE INTERIM 50-PERCENT REQUIREMENT IN FAVOR OF AN ACCELERATED 100-PERCENT REQUIREMENT WILL ADVANCE THE DTV TRANSITION

As currently structured, the FCC's DTV tuner 50-percent interim requirement provides manufacturers with only very limited ability to influence the rate of DTV receiver sales. Philips competes with other television set manufacturers to obtain contracts with retailers for the display and sale of products. Consumer demand controls the mix of television receivers that retailers order in a highly competitive marketplace. Philips manufactures a broad array of television sets for sale and devotes enormous resources in attempting to place its sets with retailers. But ultimately, the brands, sizes and types of sets on retailers' shelves is determined by the retailers, not the manufacturers who compete for shelf space. Retailers, however, are not required to

purchase a certain percentage of sets that include an ATSC tuner and must respond to consumer demand.

The market structure for television receivers therefore is not within the control of any manufacturer, so compliance with any mandate other than a 100-percent requirement is outside the manufacturers' control. Previously, when the FCC provided for phasing in the V-chip, it required 50 percent of *models* to be compliant rather than 50 percent of *all sets*.² Manufacturers control the models they make available to retailers, and therefore compliance with the FCC's 50-percent mandate for implementation of the V-chip requirement was clear and easily ascertainable. But manufacturers have no control over the volume and mix of sets that retailers purchase, and in fact retailers calculate their needs spread over all of the manufacturers. Philips and its competitors look to the sales volumes of various types of sets in the immediately preceding years to estimate the next year's sales volumes, but this is far from an exact science and can differ dramatically from year to year as new technologies are constantly being introduced and retailers continually amend their strategies in response to consumer preferences.

For a variety of reasons with which the Commission is familiar from other proceedings, consumer demand for integrated ATSC television receivers has lagged what it might have expected and preferred. One very real issue is that many would-be digital broadcast viewers remain in the dark about digital broadcasts even where multiple digital signals are readily available. An extremely limited number of newspapers carry program listings for the digital channels, leaving most viewers unaware that over-the-air digital broadcasts even exist in their

² See 47 C.F.R. §15.120(a)(2004); *Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings*, ET Docket No. 97-206, Report and Order, 13 FCC Rcd 11248 (1998).

communities. Moreover, significant percentages of consumers are outside the coverage of many broadcasters' low-powered digital signals.³

The FCC's website devoted to information about DTV (<http://www.dtv.org>) and related activities, as well as the educational initiatives of various stakeholders, are making accurate information about digital television more readily available. But informational efforts take time, and in the meantime digital ATSC sets are only slowly moving from retailers' shelves to consumers' living rooms, notwithstanding substantial advertising and promotion by manufacturers and retailers.⁴

A date certain for the end of the DTV transition would help focus consumers' attention on digital sets. It also would provide the basis for clear and compelling information to be given consumers at retail outlets. It just hasn't been effective with consumers to say that analog broadcasts will cease some day in the indeterminate future. A date certain will lend certainty to the cessation of analog broadcasting and focus consumers on the need for a set with an ATSC tuner if they view over-the-air broadcasts.

Coupled with general public unawareness of the DTV transition for broadcasting is the fact that by necessity there exists a significant cost differential between an HDTV-ready set and

³ The FCC's own data from July 2004 showed that of the approximately 1220 commercial television stations then on the air with a digital signal, 779 were operating pursuant to Special Temporary Authority ("STA"). The FCC data also showed that these 779 commercial stations were reaching, on average, only 72 percent of their analog viewers with a digital signal. See Letter from Michael K. Powell, FCC Chairman, to Rep. W. J. (Billy) Tauzin, Append. A (*dated* Oct. 7, 2004). As of April 7, 2005, according to the FCC's data, the number of commercial stations that continue to operate under STAs has dropped only slightly, to 702. See "DTV Stations Authorized To Be On The Air," *available at* <http://www.fcc.gov/mb/video/files/dtvonairsum.html> (*visited* April 15, 2005).

⁴ On behalf of its television set manufacturer members, the Consumer Electronics Association (CEA) has engaged in numerous initiatives to educate the public about the DTV transition, *see* the submissions of the CEA in MB Docket No. 03-15, 04-210, and 04-227.

an integrated HDTV set. Most consumers (an estimated 85 percent) do not require the addition of an ATSC tuner to view digital programming because they rely on a cable or DBS provider to deliver their programs.⁵ These consumers most commonly are provided digital set-top boxes by their providers that completely by-pass the over-the-air ATSC tuners in the consumers' set. This undercuts the justification for consumers to pay extra for the integrated ATSC tuner.

Philips and other manufacturers have tried to overcome the ATSC barrier by including cable reception capabilities (QAM) in its ATSC sets, both because it is economical to do so and because there is a much larger potential audience for integrated cable sets. Marketplace reality, however, is that consumers are demanding the less expensive models because the sets provide quality comparable to those with ATSC tuners when used with cable and satellite set-top boxes.

We now know that a 50-percent requirement distorts the marketplace and is exceedingly difficult to implement unless the Commission extends its rule to require retailers and consumers to purchase 50 percent of their sets with ATSC capabilities -- a provision well outside the FCC's jurisdiction. The logical solution is to move to a 100 percent requirement. Rather than continuing to fight trends in the television marketplace, the outcome of which cannot be dictated even by FCC regulation, Philips urges the Commission to recognize the demonstrable marketplace demands and move to an earlier 100-percent requirement for 25-to-36 inch sets and delete the 50-percent requirement.

⁵ See *Media Bureau Staff Report Governing Over-the-Air Broadcast Television Viewers*, MB Docket No. 04-210 at ¶¶ 7-8 (February 28, 2005).

AT THIS LATE DATE THE 100 PERCENT REQUIREMENT CANNOT REASONABLY BE EARLIER THAN MARCH, 2006

Philips supports expediting the 100-percent requirement to March, 2006, as proposed by the Consumer Electronics Association (“CEA”) and the Consumer Electronics Retailers Coalition (“CERC”). An earlier deadline would be totally infeasible, and indeed the March deadline is unprecedented in its shortness for this type of requirement. The earliest that an FCC Order in this proceeding can be expected is June – nine or fewer months before the proposed March 1 deadline. This is one-half the time normally required to implement such a requirement. This lead time is too short to change TV receiver designs and plan necessary changes in our production lines, obtain orders from retailers, and order parts with which to produce the receivers.⁶ But even though a March deadline would be unprecedented in its shortness, it is one that we are willing to undertake in the public interest.

Even for a March 1 deadline to be practical, however, the Commission must adopt the rules changes forthwith. Every month that passes increases the difficulty for manufacturers to finalize their product line and obtain orders from retailers. To be feasible for Philips, for example, we already have instructed our production executives to plan for a 100 percent requirement to go into effect on March 1, 2006, based on the FCC announcement of its Notice in this proceeding. This early reaction was necessary notwithstanding the lack of final Commission Rules, or even any assurance that the Commission will adopt the proposal, to permit us to be able to meet the requirement if adopted.

⁶ The 18-month cycle for television sets has been acknowledged consistently by the Commission in its proceedings on variety of other issues related to television receivers. *See, e.g., Closed Captioning Requirements for Digital Television Receivers, etc.*, Report and Order, 15 FCC Rcd 16788 at ¶¶ 54-58 (2000); *Technical Requirements to Enable Blocking of Video Programming Based on Program Ratings, etc.*, Report and Order, 13 FCC Rcd 11248 at ¶¶ 21-24 (1998).

Philips has plans to phase out analog NTSC tuner-only sets in the 25-36 inch range during the fall and winter, and to eliminate completely the analog-only tuner line in these sizes by March 1, 2006 if the Commission adopts its proposal. We emphasize, however, that even acting ahead of final FCC action does not assure that we will be able to meet this aggressive deadline for supplying all models of our sets with ATSC tuners because it represents a substantial shortening of our normal 18-month period. We do commit, however, that if the FCC adopts the March 1, 2006 date, Philips will cease shipping any analog NTSC-only set 25 inches or larger by that date notwithstanding whether direct replacement sets are immediately available.

CONCLUSION

Philips is committed to building and marketing innovative new television receivers that incorporate ATSC tuners. With consumers expressing a preference for non-ATSC sets, however, the Commission and manufacturers must rely on a 100-percent requirement. Efforts to comply with the earlier 50-percent requirement were exceedingly costly and difficult to meet because the critical link – retailer purchase and consumer sales – is outside the control of manufacturers.

Adopting a 100-percent requirement would solve the marketplace demand problem and put all parties on equal footing. But time is short. To advance the transition, the Commission should adopt its proposals forthwith.

Respectfully submitted,

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